

# **Proposed Rule Amendments**

## **Public Hearing:**

***August 20, 2015 – 10:30 am***  
**Wake Technical Community College**  
**Public Safety Training Center**  
**321 Chapanoke Rd.**  
**Raleigh, NC 27502**

**Instructions for Oral and Written Comments:** The objection, reasons for the objection, and the clearly identified portion of the rule to which the objection pertains, must be submitted in writing to:

Trevor Allen  
Department of Justice  
Criminal Justice Standards Division  
PO Drawer 149  
Raleigh, NC 27602.

**Title:** **Educational Requirements**  
**Agency:** Department of Justice, Criminal Justice Standards Division  
**Contact:** Trevor Allen (919) 779-8205  
**Impact Summary:** State Government: No  
Local Government: No (minimal)  
Substantial Impact: No  
Small Business: No

**12 NCAC 09B .0106: Documentation of Educational Requirements**  
**12 NCAC 09B .0111: Minimum Standards for Law Enforcement Officers**  
**12 NCAC 09B .0114: Minimum Standards for Local Confinement Personnel**  
**12 NCAC 09B .0117: Minimum Standards for Juvenile Justice Officers**  
**12 NCAC 09B .0203: Admission of Trainees**  
**12 NCAC 09B .0302: General Instructor Certification**  
**12 NCAC 09B .0501: Certification of School Directors**  
**12 NCAC 09G .0204: Education**  
**12 NCAC 09G .0308: General Instructor Certification**

☐ **Statutory authority for the rule change:** G.S. 17C-6; 17C-10

☐ **Amendment:** The Criminal Justice Education and Training Standards Commission proposed amendments to these rules in order to allow a college or university degree to satisfy educational requirements for the purpose of certification and admission of trainees.

☐ **State Impact:** None

☐ **Local Government Impact:** None

☐ **Substantial Economic Impact:** No

☐ **Small Business Impact:** No

Rules begin on the following page:

**NCAC 09B .0106 is proposed for amendment as follows:**

**12 NCAC 09B .0106 DOCUMENTATION OF EDUCATIONAL REQUIREMENTS**

(a) Each applicant for employment as a criminal justice officer shall furnish to the employing agency documentary evidence that the applicant has met the educational requirements for the criminal justice field of expected employment.

(b) Documentary evidence of educational requirements shall consist of official transcripts of courses completed or diplomas received from a school which meets the approval guidelines of either the North Carolina Department of Public Instruction, the Division of Non-Public Instruction, or comparable out-of-state agency. Documentary evidence of college or university graduation, at an Associate's Degree or higher, consists of diplomas or transcripts from colleges or universities accredited as such by the Department of Education of the state in which the institution is located, an accredited body recognized by either the U.S. Department of Education or Council for Higher Education Accreditation, or the state university of the state in which the institution is located. The Director of the Standards Division shall determine whether other types of documentation will be permitted in specific cases. High school diplomas earned through correspondence enrollment are not recognized toward these minimum educational requirements.

(c) Documentary evidence of having passed the General Educational Development Test shall be satisfied by a certified copy of GED test results or GED certificate. A certified copy of a military GED diploma may be used as alternate evidence of GED completion.

*History Note: Authority G.S. 17C-6; 17C-10;  
Eff. January 1, 1981;  
Amended Eff. June 1, 2012; August 1, 2000.*

**12 NCAC 09B .0111 is proposed for amendment as follows:**

**12 NCAC 09B .0111 MINIMUM STANDARDS FOR LAW ENFORCEMENT OFFICERS**

In addition to the requirements for criminal justice officers contained in Rule .0101 of this Section, every law enforcement officer employed by an agency in North Carolina shall:

- (1) not have committed or been convicted of:
  - (a) a felony;
  - (b) a crime for which the punishment could have been imprisonment for more than two years;
  - (c) a crime or unlawful act defined as a "Class B misdemeanor" within the five year period prior to the date of application for employment;
  - (d) four or more crimes or unlawful acts defined as "Class B misdemeanors" regardless of the date of conviction;
  - (e) four or more crimes or unlawful acts defined as "Class A misdemeanors" except the applicant may be employed if the last conviction occurred more than two years prior to the date of application for employment; or
  - (f) an offense that, proscribed by 18 USC 922(g)(8), would prohibit the possession of a firearm or ammunition;
- (2) be a high ~~school~~ school, college, or university graduate or have passed the General Educational Development Test indicating high school equivalency; and
- (3) satisfactorily complete the employing agency's in-service firearms training program as prescribed in 12 NCAC 09E .0105 and .0106. Such firearms training compliance must have occurred prior to submission of the application for appointment to the Commission and must be completed using the agency-approved service handgun(s) and any other weapon(s) that the applicant has been issued or authorized to use by the agency.

Note: Although not presently required, the Commission recommends that, on the date of employment or within 24 months thereafter, every candidate for employment as a law enforcement officer have completed no less than six semester units or nine quarter units of educational credit at an institution recognized by the United States Department of Education and the Council for Higher Education Accreditation.

*History Note:* Authority G.S. 17C-6; 17C-10;  
Eff. January 1, 1981;  
Amended Eff. April 1, 2009; August 1, 1998; December 1, 1987; October 1, 1985; January 1, 1985; January 1, 1983.

**12 NCAC 09B .0114 is proposed for amendment as follows:**

**12 NCAC 09B .0114 MINIMUM STANDARDS FOR LOCAL CONFINEMENT PERSONNEL**

In addition to the requirements for criminal justice officers contained in Rule .0101 of this Section, every officer, supervisor or administrator employed by a local confinement facility in North Carolina shall:

- (1) not have committed or been convicted of:
  - (a) a felony; or
  - (b) a crime for which the punishment could have been imprisonment for more than two years; or
  - (c) a crime or unlawful act defined as a "Class B misdemeanor" within the five year period prior to the date of application for employment; or
  - (d) four or more crimes or unlawful acts defined as "Class B misdemeanors" regardless of the date of conviction; or
  - (e) four or more crimes or unlawful acts defined as "Class A misdemeanors" except the applicant may be employed if the last conviction occurred more than two years prior to the date of application for employment;
- (2) be a high ~~school~~ school, college, or university graduate or have passed the General Educational Development Test indicating high school equivalency.

**Note:** Although not presently required by these Rules, the Commission recommends that, on the date of employment or within 24 months thereafter, every candidate for employment as an officer, supervisor or administrator have completed no less than six semester units or nine quarter units of educational credit at an accredited institution of higher education.

*History Note:* Authority G.S. 17C-2; 17C-6; 17C-10;  
Eff. June 1, 1986;  
Amended Eff. December 1, 1987.

**12 NCAC 09B .0117 is proposed for amendment as follows:**

**12 NCAC 09B .0117 MINIMUM STANDARDS FOR JUVENILE JUSTICE OFFICERS**

In addition to the requirements for criminal justice officers contained in Rule .0101 of this Section, every juvenile justice officer employed by the North Carolina Department of Juvenile Justice and Delinquency Prevention shall:

- (1) not have committed or been convicted of:
  - (a) a felony;
  - (b) a crime for which the punishment could have been imprisonment for more than two years;
  - (c) a crime or unlawful act defined as a "Class B misdemeanor" within the five year period prior to the date of application for employment;
  - (d) four or more crimes or unlawful acts defined as "Class B misdemeanors" regardless of the date of conviction; or
  - (e) four or more crimes or unlawful acts defined as "Class A misdemeanors" except the applicant may be employed if the last conviction occurred more than two years prior to the date of application for employment; and
- (2) be a high ~~school~~ school, college, or university graduate or have passed the General Equivalency Development Test indicating high school equivalency.

*History Note:* Authority G.S. 17C-2; 17C-6; 17C-10;  
Temporary Adoption Eff. April 15, 2003;  
Eff. April 1, 2004.

**12 NCAC 09B .0203 is proposed for amendment as follows:**

**12 NCAC 09B .0203      ADMISSION OF TRAINEES**

(a) The school director shall not admit any individual as a trainee in a presentation of the Basic Law Enforcement Training Course who is not a citizen of the United States.

(b) The school shall not admit any individual younger than 20 years of age as a trainee in any non-academic basic criminal justice training course. Individuals under 20 years of age may be granted authorization for early enrollment as trainees in a presentation of the Basic Law Enforcement Training Course with prior written approval from the Director of the Standards Division. The Director shall approve early enrollment as long as the individual turns 20 years of age prior to the date of the State Comprehensive Examination for the course.

(c) The school shall give priority admission in certified criminal justice training courses to individuals holding full-time employment with criminal justice agencies.

(d) The school shall not admit any individual as a trainee in a presentation of the "Criminal Justice Instructor Training Course" who does not meet the education and experience requirements for instructor certification under Rule .0302 of this Subchapter within 60 days of successful completion of the Instructor Training State Comprehensive Examination.

(e) The school shall not admit an individual, including partial or limited enrollees, as a trainee in a presentation of the Basic Law Enforcement Training Course unless the individual has taken the reading component of a nationally standardized test within one year prior to admission to Basic Law Enforcement Training and has scored at or above the tenth grade level or the equivalent. For the purposes of this Rule:

- (1) Partial or limited enrollee does not include enrollees who currently hold general certification or who have held general certification within 12 months prior to the date of enrollment.
- (2) A nationally standardized test is a test that:
  - (A) reports scores as national percentiles, stanines or grade equivalents; and
  - (B) compares student test results to a national norm.

(f) The school shall not admit any individual as a trainee in a presentation of the Basic Law Enforcement Training Course unless the individual has provided to the School Director a medical examination report, completed by a physician licensed to practice medicine in North Carolina, a physician's assistant, or a nurse practitioner, to determine the individual's fitness to perform the essential job functions of a criminal justice officer. The Director of the Standards Division shall grant an exception to this standard for a period of time not to exceed the commencement of the physical fitness topical area when failure to timely receive the medical examination report is not due to neglect on the part of the trainee.

(g) The school shall not admit any individual as a trainee in a presentation of the Basic Law Enforcement Training Course unless the individual is a high school, college, or university graduate or has passed the General Educational Development Test indicating high school equivalency. High school diplomas earned through correspondence enrollment are not recognized toward the educational requirements.

(h) The school shall not admit any individual trainee in a presentation of the Basic Law Enforcement Training Course unless the individual has provided the certified School Director a certified criminal record check for local and state records for the time period since the trainee has become an adult and from all locations where the trainee has resided since becoming an adult. An Administrative Office of the Courts criminal record check or a comparable out-of-state criminal record check will satisfy this requirement.

(i) The school shall not admit any individual as a trainee in a presentation of the Basic Law Enforcement Training Course who has been convicted of the following:

- (1) a felony;
- (2) a crime for which the punishment could have been imprisonment for more than two years;
- (3) a crime or unlawful act defined as a "Class B Misdemeanor" within the five year period prior to the date of application for employment unless the individual intends to seek certification through the North Carolina Sheriffs' Education and Training Standards Commission;
- (4) four or more crimes or unlawful acts defined as "Class B Misdemeanors" regardless of the date of conviction;
- (5) four or more crimes or unlawful acts defined as "Class A Misdemeanors" except the trainee may be enrolled if the last conviction date occurred more than two years prior to the date of enrollment;
- (6) a combination of four or more "Class A Misdemeanors" or "Class B Misdemeanors" regardless of the date of conviction unless the individual intends to seek certification through the North Carolina Criminal Justice Education and Training Standards Commission.

(j) Individuals charged with crimes as specified in Paragraph (i) of this Rule, and such offenses were dismissed or the person was found not guilty, may be admitted into the Basic Law Enforcement Training Course but completion of the Basic Law Enforcement Training Course does not ensure that certification as a law enforcement officer or justice officer through the North Carolina Criminal Justice Education and Training Standards Commission will be issued. Every individual who is admitted as a trainee in a presentation of the Basic Law Enforcement Training Course shall notify the School Director of all criminal offenses which the trainee is arrested for or charged with, pleads no contest to, pleads guilty to or is found guilty of, and of all Domestic Violence Orders (G.S. 50B) which are issued by a judicial official after a hearing that provides an opportunity for both parties to be present. This includes all criminal offenses except minor traffic offenses and specifically includes any offense of Driving Under the Influence (DUI) or Driving While Impaired (DWI). A minor traffic offense is defined, for the purposes of this Paragraph, as an offense where the maximum punishment allowable by law is 60 days or fewer. Other offenses under G.S. 20 (Motor Vehicles) or similar laws of other jurisdictions which shall be reported to the School Director are G.S. 20-138.1 (driving while under the influence), G.S. 20-28 (driving while license permanently revoked or permanently suspended), G.S. 20-30(5) (fictitious name or address in application for license or learner's permit), G.S. 20-37.8 (fraudulent use of a fictitious name for a special identification card), G.S. 20-102.1 (false report of theft or conversion of a motor vehicle), G.S. 20-111(5) (fictitious name or address in application for registration), G.S. 20-130.1 (unlawful use of red or blue lights), G.S. 20-137.2 (operation of vehicles resembling law enforcement vehicles), G.S. 20-141.3 (unlawful racing on streets and highways), G.S. 20-141.5 (speeding to elude arrest), and G.S. 20-166 (duty to stop in event of accident). The notifications required under this Paragraph must be in writing, must specify the nature of the offense, the court in which the case was handled, the date of the arrest or criminal charge, the date of issuance of the Domestic Violence Order (G.S. 50B), the final disposition, and the date thereof. The notifications required under this Paragraph must be received by the School Director within 30 days of the date the case was finally disposed of in court. The requirements of this Paragraph are applicable at all times during which the trainee is enrolled in a Basic Law Enforcement Training Course. The requirements of this Paragraph are in addition to the notifications required under 12 NCAC 10B .0301 and 12 NCAC 09B .0101(8).

*History Note: Authority G.S. 17C-6; 17C-10;  
Eff. January 1, 1981;  
Amended Eff. June 1, 2012; February 1, 2011; June 1, 2010; December 1, 2004; July 1, 2004;  
August 1, 2002; August 1, 2000; January 1, 1995; March 1, 1992; July 1, 1989; January 1, 1985.*

**12 NCAC 09B .0302 is proposed for amendment as follows:**

**12 NCAC 09B .0302 GENERAL INSTRUCTOR CERTIFICATION**

(a) General Instructor Certification issued after December 31, 1984 shall be limited to those topics that are not expressly incorporated under the Specific Instructor Certification category. Individuals certified under the general instructor category shall not teach any of the subjects specified in Rule .0304 of this Section, entitled "Specific Instructor Certification." To qualify for issuance of General Instructor Certification, an applicant shall demonstrate a combination of education and experience in criminal justice and proficiency in the instructional process to the satisfaction of the Commission. The applicant shall meet the following requirements for General Instructor Certification:

- (1) Present documentary evidence showing that the applicant:
  - (A) is a high ~~school~~ school, college or university graduate, or has passed the General Education Development Test (GED) indicating high school equivalency, and
  - (B) has acquired four years of practical experience as a criminal justice officer or as an administrator or specialist in a field directly related to the criminal justice system.
- (2) Present evidence showing completion of a Commission-certified instructor training program or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise.
- (3) Pass the comprehensive written examination administered by the Commission, as required in Rule .0413(d) of this Subchapter.

(b) Applications for General Instructor Certification shall be submitted to the Standards Division within 60 days of the date the applicant passed the state comprehensive examination administered at the conclusion of the Commission-certified instructor training program or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise.

(c) Persons having completed a Commission-certified instructor training course or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise, and not having made application within 60 days of completion of the course shall complete a subsequent Commission-certified instructor training course in its entirety.

(d) Applicants for Speed Measuring Instrument Instructor courses shall possess general instructor certification.

*History Note: Authority G.S. 17C-6.*

*Eff. January 1, 1981;*

*Amended Eff. January 1, 2015; January 1, 2006; May 1, 2004; August 1, 2000; July 1, 1991; December 1, 1987; October 1, 1985; January 1, 1985.*



**12 NCAC 09B .0501 is proposed for amendment as follows:**

**12 NCAC 09B .0501 CERTIFICATION OF SCHOOL DIRECTORS**

(a) Any person designated to act as, or who performs the duties of, a school director in the delivery or presentation of a Commission-certified criminal justice training course shall be and continuously remain certified by the Commission as a school director.

(b) To qualify for initial certification as a criminal justice school director, an applicant shall:

- (1) Attend and successfully complete a Commission-certified instructor training course or an equivalent instructor training program as determined by the Commission (if certified after July 1, 2004); and
- (2) Present documentary evidence showing that the applicant:
  - (A) is a high ~~school~~ school, college, or university graduate or has passed the General Education Development Test (GED) indicating high school equivalency and has acquired five years of practical experience as a criminal justice officer or as an administrator or specialist in a field directly related to the criminal justice system. At least one year of the required five years experience must have been while actively participating in criminal justice training as a Commission-certified instructor; or
  - (B) has been awarded an associate degree and has acquired four years of practical experience as a criminal justice officer or as an administrator or specialist in a field directly related to the criminal justice system. At least one year of the required four years experience must have been while directly participating in criminal justice training as a Commission-certified instructor; or
  - (C) has been awarded a baccalaureate degree from a regionally accredited institution of higher learning;
- (3) Attend or must have attended the most current offering of the school director's orientation as developed and presented by the Commission staff, otherwise an individual orientation with a staff member shall be required.
- (4) Submit a written request for the issuance of such certification executed by the executive officer of the institution or agency currently certified, or which may be seeking certification, by the Commission to make presentation of certified training programs and for whom the applicant will be the designated school director.

(c) To qualify for certification as a school director in the presentation of the "Criminal Justice Instructor Training Course" an applicant shall:

- (1) Document that he/she has been awarded a baccalaureate degree from a regionally accredited institution of higher learning; and
- (2) Present evidence showing successful completion of a Commission-certified instructor training course or an equivalent instructor training program as determined by the Commission; and
- (3) Be currently certified as a criminal justice instructor by the Commission; and
- (4) Document successful participation in a special program presented by the Justice Academy for purposes of familiarization and supplementation relevant to delivery of the instructor training course and trainee evaluation.

*History Note: Authority G.S. 17C-6;  
Eff. January 1, 1985;  
Amended Eff. July 1, 2004.*

**12 NCAC 09G .0204 is proposed for amendment as follows:**

**12 NCAC 09G .0204 EDUCATION**

(a) Every person employed as a correctional officer by the North Carolina Department of Correction shall be a high ~~school~~ school, college or university graduate or have passed the General Educational Development Test indicating high school equivalency.

(b) Every person employed as a probation/parole officer by the North Carolina Department of Correction shall be a graduate of a regionally accredited college or university and have attained at least the baccalaureate degree.

(c) Every person employed as a probation/parole officer-intermediate by the North Carolina Department of Correction shall be a high school graduate or have passed the General Educational Development Test indicating high school equivalency.

(d) Each applicant for employment as a corrections officer shall furnish to the North Carolina Department of Correction documentary evidence that the applicant has met the educational requirements for the corrections field of expected employment.

- (1) Documentary evidence of educational requirements shall consist of official transcripts of courses completed or diplomas received from a school which meets the requirements of: the North Carolina Department of Public Instruction, the Division of Non-Public Instruction, a comparable out-of-state agency, or is a regionally accredited college or university. The Director of the Standards Division shall determine whether other types of documentation will be permitted in specific cases consistent with this rule. High school diplomas earned through correspondence enrollment are not recognized toward these minimum educational requirements.
- (2) Documentary evidence of completion of the General Educational Development "GED" Test shall be satisfied by a certified copy of GED test results showing successful completion. A certified copy of a military GED diploma may be used as alternate evidence of GED completion.

*History Note: Authority G.S. 17C-6; 17C-10;  
Temporary Adoption Eff. January 1, 2001;  
Eff. August 1, 2002;*

**12 NCAC 09G .0308 is proposed for amendment as follows:**

**12 NCAC 09G .0308 GENERAL INSTRUCTOR CERTIFICATION**

(a) General Instructor Certification after December 31, 1984 shall be limited to those topics that are not expressly incorporated under the Specialized Instructor Certification category. Individuals certified under the general instructor category are not authorized to teach any of the subjects specified in 12 NCAC 09G .0310, entitled "Specialized Instructor Certification." To qualify for issuance of General Instructor Certification, an applicant shall demonstrate a combination of education and experience in corrections and proficiency in the instructional process to the satisfaction of the Commission by meeting the following requirements:

- (1) Present documentary evidence showing that the applicant:
  - (A) is a high ~~school~~ school, college or university graduate or has passed the General Education Development Test (GED) indicating high school equivalency; and
  - (B) has acquired four years of practical experience as a criminal justice officer or as an administrator or specialist in a field related to the criminal justice system.
- (2) Present evidence showing successful completion of a Commission-certified instructor training program or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise; and
- (3) Achieve a passing score on the comprehensive written examination administered by the Commission, as specified in 12 NCAC 09B .0413(d), of this Chapter, within 60 days of completion of the Commission-certified instructor training program.

(b) Applications for General Instructor Certification shall be submitted to the Standards Division within 60 days of the date the applicant achieved a passing score on the comprehensive written examination administered by the Commission for the Commission-certified instructor training program or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise.

(c) Persons having completed a Commission-certified instructor training course or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise, and not having made application within 60 days of completion of the course shall complete a subsequent Commission-certified instructor training course.

*History Note: Authority G.S. 17C-6;  
Temporary Adoption Eff. January 1, 2001;  
Eff. August 1, 2002;  
Amended Eff. January 1, 2015; January 1, 2006.*

**Title:** Instructor Qualifications  
**Agency:** Department of Justice, Criminal Justice Standards Division  
**Contact:** Trevor Allen (919) 779-8205  
**Impact Summary:** State Government: No  
Local Government: No (minimal)  
Substantial Impact: No  
Small Business: No

## 12 NCAC 09F .0104: Instructor Qualifications

- ☐ **Statutory authority for the rule change:** G.S. 17C-6;
- ☐ **Amendment:** The Criminal Justice Education and Training Standards Commission proposed amendments to this rule in order to stipulate the requirements for Concealed Carry Handgun Training instructors who have not been active for a period of 2 years or more.
- ☐ **State Impact:** None
- ☐ **Local Government Impact:** None
- ☐ **Substantial Economic Impact:** No
- ☐ **Small Business Impact:** No

**12 NCAC 09F .0104 is proposed for amendment as follows:**

### 12 NCAC 09F .0104 INSTRUCTOR QUALIFICATIONS

(a) Instructors shall meet the following qualifications for approval to deliver the "Concealed Carry Handgun Training" course:

- (1) the instructor shall hold one of the following certifications:
  - (a) "Specific Instructor Certification-Firearms" issued by the Commission;
  - (b) Private Protective Services Firearms Trainer Certification; or
  - (c) "Firearms Instructor Certification" in Personal Protection, Basic Pistol, or Police Firearms issued by the National Rifle Association;
- (2) the instructor shall hold a certificate issued by the North Carolina Justice Academy showing ~~successful~~ completion of the course on "Laws Governing Concealed Handgun and Use of Deadly Force;" Force"; and
- (3) the instructor shall be eligible to receive or possess a firearm under Federal and North Carolina State ~~Law; and Law.~~

(b) If the instructor fails to file with the Commission a course outline and proof of firearm's instructor certification as specified in Paragraph (a)(1) of this Rule for two consecutive years, he or she must repeat the course on "Laws Governing Concealed Handgun and Use of Deadly Force" conducted by the North Carolina Justice Academy, provide to the Commission proof of a current firearms instructor certification, and maintain eligibility to possess a firearm as specified in Paragraph (a) of this Rule prior to instructing a concealed carry handgun course.

~~(b)(c)~~ The instructor shall notify the Criminal Justice Standards Division of all court orders, domestic violence orders of protection, and criminal offenses for which the instructor is charged which would prohibit the instructor from being eligible to receive or possess a firearm under Federal and North Carolina State Law. The notifications required under this Paragraph must be in writing, must specify the nature of the offense, the court in which the case is being handled, the date of arrest, court order, domestic violence order of protection or criminal charge. The notification required under this Paragraph must be received by the Criminal Justice Standards Division within 10 days of the date of the court order, domestic violence order of protection, arrest or criminal charge.

*History Note:* Authority G.S. 14-415.12;  
Temporary Adoption Eff. November 1, 1995;  
Eff. May 1, 1996;  
Amended Eff. September 1, 2005; May 1, 2004.